

3/1/05

ORDINANCE NO. (2005)

TC

TC-7-05

**AN ORDINANCE TO ESTABLISH A NEW WATERSHED PROTECTION
OVERLAY DISTRICT**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH,
NORTH CAROLINA that:**

Section 1. Amend the Table of Contents at the beginning of Part 10, Chapter 2 of the Raleigh City Code to include a new overlay district listing for Sec. 10-2063 which shall read:

“Sec. 10-2063. Urban Water Supply Watershed Protection Area Overlay District.”.

Furthermore, revise this Table of Contents to read:

“Secs. 10-2064 – 10-2070. Reserved.”.

Section 2. Amend Section 10-2011(b)(3), Enumeration and Description of Zoning Districts, to include a new subsection “n.” [as amended by ORD (2005) TC , TC-6-05, effective _____, 2005] which shall read as follows:

“n. Urban Water Supply Watershed Protection Area Overlay District.

The Urban Water Supply Watershed Protection Area Overlay District is intended to protect the integrity of drinking water of Raleigh and surrounding communities, so as to provide clean and safe water for residents, business, industries, plant and animal life at a reasonable cost. The Urban Water Supply Watershed Protection Area Overlay District shall be applicable to Class WS-IV waters only and is divided into two areas: a *primary water supply watershed protection area* and a *secondary water supply watershed protection area*. Regulations in this Overlay District include *impervious surface* limitations and *natural resource buffer yards*. Use limitations are imposed by this District.”.

Section 3. Amend Section 10-2056(b), **Definitions**, by deleting the two definitions in their entirety and substituting in lieu thereof the following:

“Primary water supply watershed protection area. The area in a Reservoir Watershed Protection Area Overlay District or an Urban Water Supply Watershed Protection Area Overlay District between the intake or mean high water level of the reservoir and the *secondary water supply watershed protection area*. To protect the watershed, special standards for *impervious surface* coverage, uses, *natural resource buffer yards* and *lot* sizes are applied. *Primary*

water supply watershed protection areas are delineated on the **Official Zoning Maps** and reflected in the Comprehensive Plan.

Secondary water supply watershed protection area. The area in a Reservoir Watershed Protection Overlay District or an Urban Water Supply Watershed Protection Area Overlay District between the *primary water supply watershed protection area* and surrounding *properties*. To provide a protective transition between the *primary water supply watershed protection area* and the surrounding *properties*, special standards for *impervious surface* coverage, uses, and *natural resource buffer yards* are applied. *Secondary water supply watershed protection areas* are delineated on the **Official Zoning Maps**, and reflected in the Comprehensive Plan.”.

Section 4. Amend Section 10-2056(c), **Permitted Uses**, by deleting the word “*reservoir*” from the second sentence and inserting in lieu thereof “*water supply*”.

Section 5. Amend Section 10-2056(d), **Prohibited Uses**, by deleting the word “*reservoir*” from the titles of subsections (1) and (2) and substituting in lieu thereof “*water supply*”.

Section 6. Amend Section 10-2056(e)(1) by deleting the word “*reservoir*” from the first sentences of subparagraphs “a.” and “b.” and substituting in lieu thereof “*water supply*”.

Furthermore, amend Section 10-2056(e)(2)b. to revise within this subparagraph the Code reference “§10-9040” to read “§10-9040 (a)”.

Section 7. Amend Part 10 Chapter 2 of the City of Raleigh’s Zoning Code to include the following new overlay zoning district within Code Section 10-2063 [as amended by ORD (2005) TC , TC-6-05, effective _____, 2005], entitled **Urban Water Supply Watershed Protection Area Overlay District** which shall read as follows:

“Sec. 10-2063.
URBAN WATER SUPPLY WATERSHED PROTECTION AREA OVERLAY
DISTRICT.

Regulations in the Urban Water Supply Watershed Protection Area Overlay District are applicable in Class WS-IV waters only.

(a) Approval.

If the use requires a *site plan* as set forth in §10-2132.2, approval of a *site plan* is required by either the administrative staff, the Planning Commission, or the *City Council*; see §10-2132.2(b) and (c). If the use

requires a *plot plan*, as set forth in §10-2132.1, administrative approval is required.

(b) Definitions.

Primary water supply watershed protection area. The area in a *Reservoir Watershed Protection Area Overlay District* or an *Urban Water Supply Watershed Protection Area Overlay District* between the intake or mean high water level of the reservoir and the *secondary water supply watershed protection area*. To protect the watershed, special standards for *impervious surface coverage*, *uses*, *natural resource buffer yards* and *lot sizes* are applied. *Primary water supply watershed protection areas* are delineated on the **Official Zoning Maps** and reflected in the Comprehensive Plan.

Secondary water supply watershed protection area. The area in a *Reservoir Watershed Protection Overlay District* or an *Urban Water Supply Watershed Protection Area Overlay District* between the *primary water supply watershed protection area* and surrounding *properties*. To provide a protective transition between the *primary water supply watershed protection area* and the surrounding *properties*, special standards for *impervious surface coverage*, *uses*, and *natural resource buffer yards* are applied. *Secondary water supply watershed protection areas* are delineated on the **Official Zoning Maps**, and reflected in the Comprehensive Plan.

(c) Permitted Uses.

Subject to the provisions of §10-2063 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying zoning district by the **Schedule of Permitted Uses in Zoning Districts**, §10-2071, are allowed in the Urban Water Supply Watershed Protection Area Overlay District.

(d) Prohibited Uses.

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed in the underlying district by either the **Schedule of Permitted Land Uses in Zoning District** §10-2071 or subsection (c) above is prohibited in the Urban Water Supply Watershed Protected Area Overlay District. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses *shall* not be deemed exclusive or all-inclusive.

(1) Prohibited uses in the *primary water supply watershed protection area* include:

- No new *landfills* shall be allowed.
- No new permitted sites for land application of sludge, residuals, or petroleum contaminated soils shall be allowed.

(e) Area, Density, Bulk, Yard, and Height Requirements.

(1) Area, density, and bulk.

- a. The required minimum *net lot area* for any *dwelling unit* and *equivalent dwelling unit* is that of the underlying zoning district.
- b. The maximum residential density is that of the underlying zoning district.

All minimum *net lot areas* and residential densities *shall* be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

(2) Yard.

- a. The minimum district yard setbacks of the underlying district *shall* apply.
- b. Watercourse buffer areas.

After application* of the Urban Water Supply Watershed Protection Area Overlay District, watercourses *shall*, in accordance with §10-9040(c), contain a *natural resource buffer yard*. These *natural resource buffer yards* provide an area where stormwater flows in a diffuse manner so that the runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place.

No use, encroachment, land-disturbing activity, placement of impervious surface, construction, nor installation *shall* occur within *natural resource buffer yards* except as allowed in §10-9041 and §10-9042.

***Editor's note:** This regulation first became applicable on _____, 2005 [ORD. (2005) ____-TC-____, TC-7-05].

(3) Height.

Same as the underlying zoning district.

(f) Supplementary Regulations.

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:

TABLE INSET:

(1)	Off-street parking	see §10-2081
(2)	Signage	
	<i>on-premise signs</i>	see §10-2083
	<i>off-premise signs</i>	see §10-2084

(1) Impervious surface coverage.

- a. Within the Urban Water Supply Watershed Protection Area Overlay District, the maximum amount of *impervious surface* coverage is regulated. Regulations applied to new developments, to tracts in existence prior to the effective date of *impervious surfaces* regulations (based on the effective date of the approved rezoning), and to tracts established outside the subdivision process after that date are set forth in §10-5006(a)(12). Regulations applied to subdivisions approved after that date are set forth in §10-3052.1
- b. Substitutions of *impervious surface* done in accordance with §10-2146.2(a)(5) are allowed.

(g) Existing lots and structures.

All *lots* and structures existing at the time that the Urban Water Supply Watershed Protection Area Overlay District is first applied to the *property* shall not be deemed a *zoning nonconformity* solely because of this Overlay District. For example, replacement of existing structures with like structures that otherwise conform to the requirements of the underlying district are allowed. All additions, changes, expansions, and alterations to such existing structures, which exceed existing impervious area, must comply with the regulations of the Urban Water Supply Watershed Protection Area Overlay District unless the Board of Adjustment in accordance with §10-

2146.3(a)(7) approves the addition, change, expansion or alteration, as if the existing structure were made nonconforming by the Overlay District.

Cross references: Stormwater retention, detention, or capture is required in the Urban Water Supply Watershed Protection Area Overlay District for *streets* §10-3052.1(a) and for *lots* containing higher *impervious surface* coverages §10-5006(a)(12)b. and c. Other standards for *street* construction: **Street, Sidewalk and Driveway Access Handbook**, §§10-3052.1(b) and (c), §10-2075(e), **Schedule of Permitted Land Uses Within Types of Yard Areas**.

Section 8. Amend Section 10-3052(a) by deleting the words “primary reservoir watershed” and substituting in lieu thereof the words “primary water supply watershed”.

In addition, amend Section 10-3052(a) by deleting the words “secondary reservoir watershed” and substituting in lieu thereof the words “secondary water supply watershed”.

Section 9. Amend the City of Raleigh Subdivision Regulations by adding a new Section 10-3052.1 which shall read as follows:

**“Sec. 10-3052.1.
REGULATIONS IN THE URBAN WATER SUPPLY WATERSHED
PROTECTION AREA OVERLAY DISTRICT.**

(a) *Impervious surface coverage.*

The maximum amount of *impervious surfaces* within *subdivisions* in an Urban Water Supply Watershed Overlay District *shall* not exceed the *following* table without providing the stormwater control measures set forth in §10-5006(a)(11)b. and c.

Impervious Coverage

Primary water supply watershed protection areas of this Overlay District: twenty-four (24) per cent without stormwater control measures; a maximum of fifty (50) per cent imperviousness is permitted with stormwater control measures.

Secondary water supply watershed protection areas of this Overlay District*: twenty-four (24) per cent without stormwater control measures; a maximum of seventy (70) per cent imperviousness is permitted with stormwater control measures. Stormwater runoff from the development shall be transported by vegetated conveyances to the maximum extent practicable.

The *impervious surface* limits *shall* include all proposed public and private *streets* approved after application of this ordinance* and all *impervious*

surfaces on any lot and *common area*. Calculation of the area of the development *shall* include all *subdivision* lots, new *street rights-of-way*, and *common areas* within the watershed. Calculations of the area of the development *shall* exclude any widening of existing *street rights-of-way*, existing *street rights-of-way*, and new *street rights-of-way* reserved in accordance with either §10-3019 or the Roadway Corridor Official Map Act, Chapter 136, Article 2E of the General Statutes.

* **Editor's note:** This ordinance was first applied on _____, 2005 [ORD (2005) ____-TC-____, TC-7-05].

- (1.) The *developer shall* indicate whether the development will exceed twenty-four (24) per cent *impervious surfaces* in the primary or secondary water supply watershed protection area. *Following* this determination, by means of a document recorded in the Wake Registry, the *developer shall* allocate for each lot within the development the maximum permissible impervious surface. No expansions beyond this *impervious surface* limit *shall* be permitted unless the increase is calculated based on the area of the lot, and the additional stormwater run-off is detained, retained, or captured in a wet pond on the lot in accordance with §10-5006(a)(11)c. Any lot for which no *impervious surface* is allocated must be conveyed to the public or owned by a homeowners association, approved in accordance with §10-3073. All stormwater control measures *shall* be maintained in accordance with §10-5006(a)(11)d.
- (2.) The *impervious surface* coverage limitations and stormwater retention, detention and capture requirements within the protected area of the Urban Water Supply Watershed Protection Area Overlay District area inapplicable to any *street, right-of-way*, lot, or improvement thereon if its stormwater runoff flows by gravity to a watercourse located outside the Overlay District. All gravity flow drainage plans *shall* be approved by the Stormwater Services Division of the *City*.

(b) Watercourse buffer areas.

After application* of the Urban Water Supply Watershed Protection Area Overlay District, watercourses *shall* contain, in accordance with this subsection, a natural resource buffer yard. Natural resource buffer yards *shall* adjoin either a primary watercourse or a secondary watercourse. The establishment of and uses permitted in the natural resource buffer yards are set forth in §§10-9040, 10-9042.

* **Editor's note:** This regulation first became applicable on _____, 2005. (ORD (2005) ____-TC-____, TC-7-05).

(c) Objectives.

The plans for *developments* in the Urban Water Supply Watershed Protection Area Overlay District *shall* assure that:

- (1) They are consistent with the need to protect water quality;
- (2) All public utilities and facilities are located and constructed to minimize or eliminate water quality degradation; and,
- (3) Impervious surface areas *shall* be designed and sited to minimize stormwater discharge directly into the receiving waters and minimize concentrated stormwater flow.

Cross references: Zoning regulations, §10-2063; Soil Erosion and Sedimentation Control, §10-5006(a)(12); stormwater run-off retention, detention and drainage facilities in the Urban Water Supply Watershed Protection Area Overlay District, §10-3051(c); watercourse buffers, Part 10, Chapter 9, Article B Division 2. (Ord. No. 2001-991-TC-206, §20, TC-8-00, 5-1-01)

Section 10. Amend Section 10-5006(a)(11)b. by deleting the heading of the chart located within this subsection in its entirety and substituting in lieu thereof the following:

“MAXIMUM IMPERVIOUS SURFACE LIMITS IN RESERVOIR WATERSHED PROTECTION AREA OVERLAY DISTRICT AND REQUIRED MEASURES*”.

In addition, amend this chart located in 10-5006(a)(11)b. by deleting the word “reservoir” from all 3 row titles under the category “Area” and inserting in lieu thereof “water supply”.

Furthermore, amend this chart located in 10-5006(a)(11)(b) by adding the words “of Runoff” immediately after the words “or Capture First Half Inch” in the top row and adding the words “of Rainfall” immediately after the words “Capturing First Inch” in the top row.

Section 11. Amend Section 10-5006(a)(11)(c)2., first and second sentences, by deleting the word “reservoir” and inserting in lieu thereof “water supply.”

Furthermore, amend Section 10-5006(a)(11)(c)2., first and second sentences, by adding immediately following the words “secondary water supply watershed protection area” the words “of the Reservoir Watershed Protection Area Overlay District,”.

Section 12. Amend Section 10-5006(a)(11)(3) by deleting in its entirety subparagraph (i) and substituting in lieu thereof the following:

- “(i) All wet pond design specifications and requirements are found within the City of Raleigh Stormwater Design Manual.”.

Section 13. Amend Section 10-5006(a)(11)(d) by deleting in their entirety the third paragraph and subsequent subparagraphs 1. through 6. and by substituting in lieu thereof the following:

“In addition to any other required maintenance agreement, any *person* who elects to install any stormwater measure set forth in subsection c. above *shall* enter into an agreement with the *City*. The agreement *shall* abide by the provisions outlined in the **City of Raleigh Stormwater Design Manual**.

Cross reference: Stormwater control measures in Reservoir Watershed Protection Overlay District for new subdivisions, §10-3051(c) and §10-3052.”

Section 14. Amend Section 10-5006 by adding the following new subsection (12) and by renumbering subsequent subsections (12) through (14) as subsections (13) through (15) accordingly.

“(12) Urban Water Supply Watershed Protection Area Overlay District regulations.

a. Natural Resource Buffer Yards within Urban Water Supply Watershed Protection Area Overlay Districts.

The establishment of and the uses permitted in the natural resource buffer yards are set forth in §§10-9040 through 10-9043. Within the Urban Water Supply Watershed Protection Area Overlay District shown on the official zoning map and reflected on the current comprehensive plan of the *City*, natural resource buffer yards are established along all perennial watercourses. These natural resource buffer yards provide an area where stormwater flows in a diffuse manner so that the runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place.

b. Impervious surface coverage in the Urban Water Supply Watershed Protection Area Overlay District.

1. For all lots or portions of lots in existence prior to the application of this regulation* or lots established outside the subdivision process after that date, no additional *impervious surface* may be added to the *property*, which would result in greater coverage by *impervious surface* than allowed by the *following* table:

***Editor's note:** This regulation was made applicable by
ORD (2005) ____-TC-____, TC-7-05.

MAXIMUM IMPERVIOUS SURFACE LIMITS IN URBAN WATER SUPPLY
WATERSHED PROTECTION AREA OVERLAY DISTRICT AND REQUIRED
MEASURES*

TABLE INSET:

Area	Without Stormwater Control Measures	With Retention, Detention, or Capture First Inch of Rainfall
Primary water supply watershed protection areas of this Overlay District	24%	50%
Secondary water supply watershed protection areas of this Overlay District	24%	70%

* Exemptions see subsection f. below.

Land shall be deemed compliant with the density requirements if the following condition is met: The density of all existing development at the time of reclassification does not exceed the density requirement when densities are averaged throughout the entire area.

2. *Impervious surfaces shall* include all proposed public and private *streets* within the development approved after application of this ordinance*, and all *impervious surfaces* on any lot and common area. Calculation of the area of the development *shall* include all subdivision lots, new *street* rights-of-way established after application of this ordinance, and common areas, if any, within the watershed. Calculation of the area of the development *shall* exclude any widening of existing *street* rights-of-way, existing *street* rights-of-way and new *street* rights-of-way reserved in accordance with either §10-3019 or the Roadway Corridor Official Map Act, Chapter 136 Article 2E of the General Statutes.

* **Editor's note:** This ordinance was first applied on
_____, 2005.

3. All lots established under the subdivision ordinance after the application of this Overlay District, *shall* comply with the impervious lot coverage standards in §10-3052.1(a).
4. Substitutions of *impervious surfaces* done in accordance with §10-2146.2 (a)(5) are allowed.

c. Required Stormwater Measures.

Stormwater retention, detention, and capture. Within any primary or secondary watershed protection area of the Urban Water Supply Watershed Protection Area Overlay District those lots which are connected to both *City* water and sewer utilities and have a total impervious coverage of more than twenty-four (24) per cent; provided that state-approved engineered stormwater controls *shall* control runoff from the first one (1) inch of rainfall. All engineered stormwater controls *shall* be in strict compliance with the **City of Raleigh Stormwater Design Manual**.

- (1) Retained for either infiltration into the soil or for evaporation into the air; or
- (2) Detained for at least a twelve-hour period; or
- (3) Captured by a wet pond in accordance with applicable regulations.

d. Maintenance of stormwater control measures.

When retention devices, detention devices, or wet ponds serve more than one (1) lot and are located on private property, there *shall* be recorded a maintenance agreement which complies with §10-5007(c) for sharing the maintenance costs. There *shall* also be recorded, after approval by the *City*, in the Wake County Registry, a map showing the location of the retention device, detention device, or wet pond on the lot; said map *shall* bear the *following* note:

"The devices and ponds which control stormwater located on this lot are required to be maintained by the *property owner* in accordance with the requirements of the Raleigh *City* Code."

No retention device, detention device, or wet pond *shall* be installed except in accordance with the requirements of the Raleigh *City* Code.

In addition to any other required maintenance agreement, any *person* who elects to install any stormwater measure set forth in subsection c. above *shall* enter into an agreement with the *City*. The agreement *shall* be in strict compliance with the provisions outlined in the **City of Raleigh Stormwater Design Manual**.

Cross reference: Stormwater control measures in Water Supply Watershed Protection Overlay District for new subdivisions, §10-3051(c) and §10-3052.

e. Exemptions.

1. The *impervious surface* coverage limitations and stormwater retention, detention, and capture requirements within the secondary water supply watershed protection area of the Urban Water Supply Watershed Protection Area Overlay District are inapplicable to any *street*, right-of-way, lot, or improvement thereon if its stormwater runoff flows by gravity to a watercourse located outside the Overlay District. All gravity flow drainage plans *shall* be approved by the Stormwater Services Division of the *City*.
2. The *impervious surface* coverage limitations and stormwater retention, detention, and capture requirements are inapplicable to a lot separated by deed conveyance prior to _____, 2005 provided that, the lot is developed for a single-family dwelling with no more than three thousand five hundred (3,500) square feet of *impervious surfaces* and the *owner* does not own any other contiguous real *property* which could be recombined in accordance with §10-3005.

State law references: G.S. 143-214.5 and 15A N.C. Admin. Code 2B; 1985 Sessions Laws, Chapter 556.

Section 15. Amend Section 10-9040, **NATURAL RESOURCE BUFFER YARDS**, to add a new subsection **(c)** which shall read as follows:

“(c) Urban Water Supply Watershed Protection Area Overlay District watercourse buffers.

After application of an Urban Water Supply Watershed Protection Area Overlay District, shown on the official zoning map, and reflected on the current comprehensive plan of the *City*, natural resource buffer yards are established. These natural resource buffer yards provide an area where stormwater flows in a diffuse manner so that the stormwater runoff does not become channeled and infiltration of the stormwater and filtering of pollutants can take place.

All perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps *shall* contain a natural resource buffer yard of a minimum thirty (30) feet.

A minimum hundred (100) foot natural resource buffer yard is required for all new development activities that exceed:

- Two dwelling units of single family detached development per acre (or 20,000 square foot lot excluding roadway right-of-way) or
- Twenty-four (24) percent built-upon area for all other residential and non-residential development.

The width of the natural resource buffer yard *shall* be measured perpendicularly to the flow of the watercourse and horizontally from the edge of the watercourse banks except when no watercourse banks exist, in which case, the centerline of the watercourse *shall* be used.

The dimensions of the natural resource buffer *shall* be delineated on recorded final *subdivision* plats or at the time of *development* of the *property* if these plats are not yet recorded.

The *City Council shall* reduce the width of these yards whenever it determines that the extent of the natural resource buffer yard will deprive the landowners of reasonable use of their *property*.”.

Section 16. Amend Section 10-9041(a), immediately following “a Metro Park Protection Overlay District”, by adding “, an Urban Water Supply Watershed Protection Area Overlay District”.

Furthermore, amend Section 10-9041(a)(2) to delete the comma following “fountains” and in lieu thereof insert the word “or”.

Section 17. Amend Sections 10-9041(b) and (c), immediately following “Reservoir Watershed Protection Area Overlay District”, by adding “, or an Urban Water Supply Watershed Protection Area Overlay District”.

Section 18. All laws and clauses of laws in conflict herewith are hereby repealed to the extent of said conflict.

Section 19. If this ordinance or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given separate effect and to the end the provisions of this ordinance are declared to be severable.

Section 20. This ordinance has been adopted following a duly advertised joint public hearing of the Raleigh City Council and the City Planning Commission following a recommendation of the Planning Commission.

Section 21. This ordinance has been provided to the North Carolina Capital Commission as required by law.

Section 22. This ordinance shall be enforced by law as provided in G.S.N.C. 160A-75 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty dollar limit in G.S. 14-4(a) or similar limitations.

Section 23. This ordinance shall become effective five (5) days following its adoption.

ADOPTED:

EFFECTIVE:

DISTRIBUTION: